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Filing date: **10/04/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047162
Party	Plaintiff Fresh Express Incorporated
Correspondence Address	E. Lynn Perry Perry IP Group 100 Drakes Landing Road, Suite 100 Greenbrae, CA 94904 UNITED STATES lperry@perryip.com, cmangonon@perryip.com
Submission	Motion to Amend Pleading/Amended Pleading
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Signature	/elp/
Date	10/04/2007
Attachments	071004 Amended Petition to Cancel as filed.pdf ( 2 pages )(73504 bytes ) 071004 POS of Amended Motion.pdf ( 1 page )(22176 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FRESH EXPRESS INCORPORATED,	)	Cancellation No.: 92047162
	)	
Opposer,	)	
	)	Reg. No. 1,758,520
v.	)	Issued: March 16, 1993
	)	Mark: SALAD BAR
SUPREME OIL COMPANY,	)	
	)	<b>AMENDED PETITION TO CANCEL</b>
Respondent.	)	
	)	

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FRESH EXPRESS INCORPORATED, a Delaware corporation having a place of business at P.O. Box 80599, Salinas, CA 93912, believes it will be damaged by continued registration of the mark SALAD BAR, Reg. No. 1,758,520, ("Registrant's Mark"), subject of the above-identified registration owned by SUPREME OIL COMPANY ("Registrant"), and hereby petitions to cancel the same. As the basis for this Petition to Cancel, Petitioner alleges:

1. Petitioner is the owner of the following intent-to-use application: SALAD BAR EXPRESS, Ser. No. 78/719,905, filed September 23, 2005 (the "Application").
  
2. According to the records of the United States Patent and Trademark Office, Registrant was issued Registrant's Mark on March 16, 1993, and the subject registration was renewed on June 4, 2003.
  
3. Registrant's Mark has been cited as a bar to registration of the Application.
  
4. On information and belief, Registrant is not using Registrant's Mark in the United States.
  
5. On information and belief, Registrant has abandoned Registrant's Mark in the United States in that Registrant has not used Registrant's Mark in commerce in or with the United States in at least the three years preceding this Petition to Cancel.

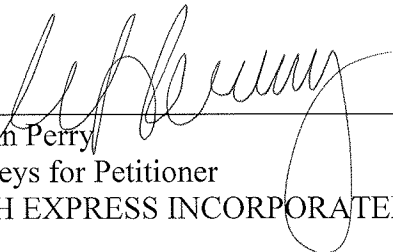
6. For the foregoing reasons, registration of Registrant's Mark is injurious and damaging to Petitioner within the meaning of Section 14(3) of the Trademark Act of 1946 (15 USC §1064(3)) and will result in injury and damage to Petitioner and its business.

WHEREFORE, Petitioner respectfully prays that this Petition to Cancel be sustained and that the Registration of Registrant's Mark be cancelled.

It is requested that all future communications in connection with this proceeding be addressed to the undersigned.

Respectfully submitted,

Dated: October 4, 2007

By:   
E. Lynn Perry  
Attorneys for Petitioner  
FRESH EXPRESS INCORPORATED

PERRY IP GROUP  
A Law Corporation  
4 Embarcadero Center  
39<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 398-6300

**CONSENTED MOTION**

I hereby certify that Respondent, through its counsel, has consented to the filing of the foregoing AMENDED PETITION TO CANCEL through an exchange of emails.

**CERTIFICATE OF SERVICE**

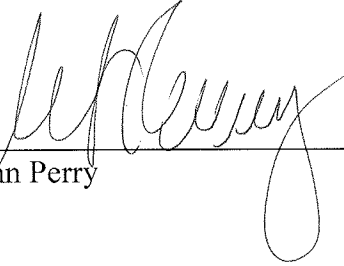
I hereby certify that a true and correct copy of the foregoing

AMENDED PETITION TO CANCEL

was served by delivering a true and correct copy of same via email, with the consent of Ms. Roach, upon the following:

Frederick W. Meyers  
Amanda M. Roach  
Ladas & Parry LLP  
224 S. Michigan Avenue  
Suite 1600  
Chicago, IL 60604

October 4, 2007

  
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E. Lynn Perry